

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TENNESSEE**

In re

**PROPOSED AMENDMENTS
TO LOCAL RULES**

No. 2018-01

GENERAL ORDER

Pursuant to Rule 9029 of the Federal Rules of Bankruptcy Procedure and Rule 83 of the Federal Rules of Civil Procedure, it is ORDERED that the Clerk of Court give public notice of the proposed amendments to the court's local rules as set forth on the attachment hereto. Comments must be in writing and should be directed to the attention of the Clerk of Court: William T. Magill, Esq., James H. Quillen United States Courthouse, 220 West Depot Street, Suite 218, Greeneville, Tennessee 37743. The comment period will end October 12, 2018.

ENTERED: September 12, 2018

/s/ Marcia Phillips Parsons
MARCIA PHILLIPS PARSONS
Chief United States Bankruptcy Judge

/s/ Shelley D. Rucker
SHELLEY D. RUCKER
United States Bankruptcy Judge

/s/ Suzanne H. Bauknight
SUZANNE H. BAUKNIGHT
United States Bankruptcy Judge

/s/ Nicholas W. Whittenburg
NICHOLAS W. WHITTENBURG
United States Bankruptcy Judge

PROPOSED AMENDMENTS TO LOCAL RULES

RULE 1007-1. LISTS, SCHEDULES, & STATEMENTS

(a) Payment Advices or Other Evidence of Payment from Employer. The debtor must comply with 11 U.S.C. § 521(a)(1)(B)(iv) and Fed. R. Bankr. P. 1007(b)(1)(E) (requiring the filing of copies of all payment advices or other evidence of payment, if any, received by the debtor from an employer within 60 days before the filing of the petition) by filing a statement ~~substantially~~ conforming to Local Form 1007.1. . . .

(b) Certificate of Completion of Personal Financial Management Course. Fed. R. Bankr. P. 1007(b)(7) may be satisfied by an approved personal financial management provider filing a certificate bearing—

. . . .
(4) an electronic (“~~/s/~~”) or manual signature

Comment

“Substantially” as it relates to compliance with use of local forms, notices, and legends has been removed throughout the rules. The forward slash before “s/” to indicate an electronic signature has been deleted to conform to the district court’s usage of “s/”.

RULE 2002-4. NOTICE TO STATE OF TENNESSEE

Notices to the State of Tennessee or any of its agencies, departments, or instrumentalities must be served on the Tennessee Attorney General at the address set forth on the court’s website, www.tneb.uscourts.gov.

Comment

This correction supplies the missing “s” after “uscourt” in the website address.

RULE 2014-1. EMPLOYMENT OF PROFESSIONALS

~~Unless the court orders otherwise, e~~Entry of an order approving the employment of a professional under Fed. R. Bankr. P. 2014 will be deemed to relate back to the filing date of the application to employ or, if the application to employ is filed within 7 days of the order for relief, to the date of the order for relief, provided that the application for employment and approving order reference this rule. An application to employ requesting entry of an order authorizing employment retroactive to the date services were first begun other than as provided in the foregoing sentence must include the request in the title of the application, be set for hearing in accordance with E.D.

Tenn. LBR 9013-1(f), and be served along with the proposed order upon all creditors and other parties in interest.

Comment

Language that “unless the court orders otherwise” or “unless otherwise ordered by the court” existing in this rule and in E.D. Tenn. LBR 2015-2, 4001-4, 6007-1, and 7067-1 is unnecessary in light of the preamble contained in E.D. Tenn. LBR 1001-1(b) that reserves the court’s ability to excuse compliance with a rule.

RULE 2015-2. DEBTOR — DUTIES / OPERATING REPORTS

(a) Chapter 11 Operating Reports. ~~Unless otherwise ordered by the court, a~~ chapter 11 debtor in possession or trustee, if one has been appointed, must file verified operating reports in the format required by the United States Trustee, except that in a chapter 11 small business case, Official Form 425C, Small Business Monthly Operating Report, must be utilized. Prior to confirmation of a plan, the reports must be filed monthly. After confirmation, the reports may be filed quarterly instead of monthly unless the confirmed plan provides for a different reporting schedule.

(b) Chapter 12 Operating Reports. ~~Unless otherwise ordered by the court, a~~ chapter 12 debtor must file verified operating reports in the format required by the chapter 12 trustee. Prior to confirmation of a plan, the reports must be filed monthly. After confirmation, the reports may be filed quarterly instead of monthly unless the confirmed plan provides for a different reporting schedule.

(c) Chapter 13 Operating Reports. ~~Unless otherwise ordered by the court, a~~ chapter 13 debtor engaged in business must file verified monthly operating reports in the format required by the chapter 13 trustee. ~~After confirmation, the reports may be filed quarterly instead of monthly unless the confirmed plan provides for a different reporting schedule.~~

....

Comment

An option presently available for chapter 11 and 12 debtors to file with the clerk of court quarterly instead of monthly reports after confirmation has been added for chapter 13 debtors. As to stricken language, see comment to E.D. Tenn. LBR 2014-1.

RULE 2016-1. COMPENSATION OF DEBTOR’S ATTORNEY IN CHAPTER 13 CASES

....

(d) Debtor’s Attorney Fee in Cases Dismissed or Converted Before Confirmation.

- (1) *Award of Fee.* In the event a chapter 13 case is dismissed or converted before plan confirmation, the attorney for the debtor ~~will~~ may be awarded a fee in the amount of \$1,750 ~~if provided for in the tendered dismissal or conversion order~~, absent a request filed by the attorney ~~for a different amount~~ or an objection filed by the trustee or the debtor within 14 days after entry of the dismissal or conversion order.
- (2) *Payment of Fee.* The awarded fee is to be paid from any prepetition retainer held by the debtor's attorney, with the balance paid by the chapter 13 trustee from any plan payments on hand, after payment of any unpaid filing fees. In the event there are any other unpaid administrative expenses awarded under 11 U.S.C. § 503(b), the trustee must pay these expenses along with the balance of the fee award on a pro-rata basis from plan payments in the trustee's possession.
- (3) *Retainer.* If the attorney for the debtor has received a retainer and either a fee was not awarded as provided in paragraph (1) or the retainer exceeds the fee award, the attorney for the debtor must apply the unawarded retainer or retainer balance toward payment of the filing fee if the chapter 13 trustee does not have sufficient funds on hand from plan payments to pay the fee. In the event a retainer balance remains after payment of the filing fee, within 30 days from entry of the order dismissing or converting the case, the attorney for the debtor must amend the previously filed Disclosure of Compensation statement to evidence refund of the retainer balance or any new agreement for services to be provided in a converted case.

(e) Debtor's Attorney Fee in Cases in Which Attorney Does Not Complete Representation.

If an attorney has been awarded a flat fee under subdivision (b) and for any reason the attorney's representation ends before the case is closed, the court, either sua sponte or on request of a party, may order disgorgement of fees received but not earned and vacate any balance of the award that has not been received. A flat fee award to the initial attorney in the case does not prohibit a successor attorney from being awarded compensation for providing the necessary services to complete representation of the debtor in the case. A successor attorney may request compensation on either a flat fee basis pursuant to subdivision (b)(1) or by the lodestar method pursuant to subdivision (c). The request may be made by application or included in a motion to modify the confirmed plan. Unless provided for in a modified plan, any application for compensation by a successor attorney must state the effect, if any, of the requested fee on the dividend to be paid unsecured creditors under the debtor's plan and be served on the debtor and trustee, as well as all creditors if the amount exceeds \$1,000.

Comment

The amendment breaks down the existing subdivision (d) into three paragraphs, of which only paragraph (3) is new. The first sentence of the current rule is modified to make clear that the award of the fee is not automatic, and that the dismissal or conversion order must expressly provide for award of the fee. As the court's suggested form orders require, the new paragraph directs the debtor's attorney to apply an excess retainer toward payment of any unpaid filing fee if the chapter 13 trustee does not have funds on hand to pay the fee. The new paragraph also directs the debtor's

attorney to refund to the debtor any remaining excess retainer, unless there is a new fee arrangement in a converted case and amend the Disclosure of Compensation statement. Lastly, a new subdivision (e) has been added to address the issue of attorney compensation in cases in which the original attorney does not complete the representation of the debtor.

RULE 2091-1. ATTORNEYS — WITHDRAWALS

(a) Withdrawal by Attorney for Debtor in a Bankruptcy Case or Adversary Proceeding. An attorney who has made an appearance on behalf of a debtor as determined by E.D. Tenn. LBR 9010-1 may not withdraw from representation of the debtor except by leave of court for cause shown. The attorney seeking to withdraw must either file a motion setting forth the basis for the requested withdrawal or, in the event the debtor has obtained the services of another attorney, a motion for entry of an agreed order of substitution of counsel signed by both attorneys. If a motion to withdraw is filed in a bankruptcy case, the attorney must serve the motion and proposed order upon the debtor and the trustee. If a motion to withdraw is filed in an adversary proceeding, the attorney must serve the motion and proposed order upon the debtor and all other parties. If an agreed order of substitution of counsel is tendered, the new attorney must file within 14 days after entry of the agreed order the ~~d~~Disclosure of ~~e~~Compensation statement required by 11 U.S.C. § 329 and Fed. R. Bankr. P. 2016(b), Director’s Form 2030, available on the court’s website, www.tneb.uscourts.gov.

Comment

Capitalization is made for consistency within the local rules.

RULE 3015-2. CHAPTER 13 — AMENDMENTS TO PLANS

(a) Modification of Confirmed Plans.

. . . .

- (6) *Court Consideration of Motion.* If no objection to the proposed modification is filed, the court may approve the modification without a hearing. In that event, the chapter 13 trustee must promptly tender an order approving the modification, bearing the signature of the trustee, in ~~a~~the form ~~required by~~ ~~substantially conforming to~~ Local Form 3015.3. . . .

Comment

See comment to E.D. Tenn. LBR 1007-1, as applicable.

RULE 4001-1. AUTOMATIC STAY — RELIEF FROM

....

(d) Service of Joined Motion to Compel Abandonment. If a motion for relief from stay is joined with a motion for order requiring the trustee to abandon property of the estate, the joint motion must also be served upon all creditors and parties in interest, ~~unless otherwise ordered by the court.~~ except as permitted by E.D. Tenn. LBR 6007-1(b).

[Comment](#)

Reference is included to the proposed exception in E.D. Tenn. LBR 6007-1(b). As to stricken language, see comment to E.D. Tenn. LBR 2014-1.

RULE 4001-4. SERVICE IN CHAPTER 11 CASES — PARTIES TO RECEIVE NOTICE

~~Unless the court orders otherwise, a~~A motion filed under Fed. R. Bankr. P. 4001(a)-(d) in a chapter 11 case must be served upon the following

[Comment](#)

See comment to E.D. Tenn. LBR 2014-1.

RULE 4002-1. DEBTOR — DUTIES

(a) Domestic Support Obligations. With respect to each domestic support obligation, the debtor must list on Schedule E/F: Creditors Who Have Unsecured Claims—

- (1) in Part 1 the name and address of each claim holder (the names of minor children ~~shall must~~ not be revealed)

[Comment](#)

Change made for consistency within the local rules.

RULE 5005-4. ELECTRONIC FILING

(a) Electronic Filing Generally. The court uses an Electronic Case Filing (ECF) system, as integrated with the Case Management (CM) component, that allows, accepts, and routes remote filings via internet access to electronic court files. Except as otherwise provided by these rules or the court, all documents submitted for filing must be filed electronically by a Registered User, or scanned and uploaded by the clerk into the ECF system. No paper file is maintained by the clerk and if a paper document is submitted for filing and is scanned into the ECF system by the clerk, the clerk may thereafter dispose of the paper document. Documents may be filed, signed, or

verified by electronic means that are consistent with technical standards established by the Judicial Conference of the United States and these rules. **Only attorneys, trustees in bankruptcy, creditors, and claims agents may become Registered Users.**

....

~~(f) **Effect of Filing.** An electronic filing in accordance with these rules constitutes filing of the document for all purposes of the Federal Rules of Bankruptcy Procedure. When a document has been filed electronically, the official record is the electronic recording of the document as stored by the court, and the filing party is bound by the document as filed.~~

~~(g)~~ **Time of Filing.** . . .

~~(h)~~ **Docket Entries.**

....

~~(i)~~ **Signatures.**

- (1) *Signature of Registered User.* Every electronically-filed document must include the signature of the Registered User under whose log-in and password the document was filed and the information required by E.D. Tenn. LBR 9011-4. **Except as provided in paragraph (2) below, the signature of a Registered User on an electronically-filed document is indicated by an image of the signature that can be viewed in ECF or by an “/s/” followed by the typed name of the person signing Registered User in a signature block. Entry of the Registered User’s log-in and password serves as the Registered User’s signature on all documents electronically filed with the court for purposes of Fed. R. Bankr. P. 9011, the local rules of this court, and any other purpose for which a signature is required in connection with proceedings before the court.**
- (2) *Signatures on Affidavits, Declarations, Verified Documents, and Reaffirmation Agreements.* Except as provided in paragraphs 3, 6, and 7 immediately below, each affidavit, unsworn declaration under penalty of perjury, verified document, or reaffirmation agreement filed or submitted for filing must contain actual handwritten signatures. The “/s/” type of signature is not permitted on these types of documents.
- (3) *Signature of Debtor on Petition, Lists, Schedules, Statements, and Other Documents.* Any petition, list, schedule, statement, and amendment thereto that requires the debtor’s signature may be filed electronically by a Registered User with the debtor’s signature indicated as “/s/” followed by the typed name of the debtor, provided the debtor has actually signed a copy of the document and the filing attorney retains the signed document as required by paragraph 5 below.

....

- (6) *Signatures of Providers of Credit Counseling Briefings and Personal Financial Management Courses.* Although approved nonprofit budget and credit counseling agencies providing debtors with services under 11 U.S.C. § 109(h) and providers of instructional courses concerning personal financial management as required by 11 U.S.C. §§ 727(a)(11) and 1328(g)(1) are not Registered Users, the court will accept for filing certificates issued by such entities if such a certificate bears a signature by an “/s/” followed by the typed name of the person signing.
- (7) *Signature of Claimant on Proof of Claim.* A proof of claim may be filed, amended, transferred, or withdrawn with the claimant’s signature indicated as “/s/” followed by the typed name of the claimant, provided that the claimant has complied with subdivision (ji) below.

(ji) Electronic Filing of Proof of Claim, Amendment to Claim, Transfer of Claim, or Withdrawal of Claim. A proof of claim, amendment to claim, or withdrawal of claim may be electronically filed through the ECF system or the court’s website, www.tneb.uscourts.gov. A transfer of claim may be filed electronically only through the ECF system. To file through the ECF system, the filer must register as a Registered User of the ECF system as an attorney, creditor, or claims agent. No person or entity may cause or permit a proof of claim, amendment of claim, transfer of claim, or withdrawal of claim to be filed electronically without the express authorization of the individual whose signature appears on the electronically-filed document and the person or entity on whose behalf the document is being filed. When an individual creditor or employee or agent of any creditor or claims agent electronically files a proof of claim, an amendment to claim, a transfer of claim, or a withdrawal of claim, that individual creditor, employee, or agent certifies—

- (1) that he or she is authorized to file the proof of claim, amendment of claim, transfer of claim, or withdrawal of claim by the entity on whose behalf the document is being filed; and
- (2) that the individual whose signature is shown on the proof of claim, amendment of claim, transfer of claim, or withdrawal of claim has authorized such signature and the filing of that document.

~~Upon the electronic filing of a proof of claim, amendment to claim, transfer of claim, or withdrawal of claim, the signature will constitute a signature for purposes of Fed. R. Bankr. P. 9011, 18 U.S.C. § 152, and any other applicable law.~~

(kj) Exhibits and Attachments. . . .

(lk) Facsimile Filing. . . .

(ml) Chapter 7 Trustee Report of No Distribution. . . .

(nm) Documents Under Seal. . . .

(on) Public Access at the Court. . . .

(po) Conventional Copies and Certified Copies. . . .

Comment

In light of the proposed amendment to Fed. R. Bankr. P. 5005(a)(2), the added language in subdivision (a) is intended to clarify that the rule does not permit individuals not represented by an attorney to file electronically notwithstanding the registration process in subdivision (c) that uses the general term “individual.” Subdivision (f) and other language is stricken because the language is no longer necessary or because it is inconsistent with proposed Fed. R. Bankr. P. 5005(a)(2)(C), which addresses what constitutes a person’s signature for electronic filing and the effect of an electronic filing. Regarding deletions of the forward slash before “s/”, see comment to E.D. Tenn. LBR 1007-1, as applicable.

RULE 5010-1. REOPENING CASES

In filing a motion to reopen a closed chapter 7 case to administer unscheduled assets, the United States Trustee or chapter 7 trustee may request in the motion that payment of the reopening fee be deferred pending discovery of additional assets of the estate. The proposed order granting the motion must provide for the deferral of the reopening fee and may provide that the fee will be waived if no additional assets are discovered.

Comment

This new rule incorporating the pertinent provisions of Bankruptcy Court Miscellaneous Fee Schedule provides a procedure for deferral and possible waiver of the reopening fee for the United States Trustee or chapter 7 trustee.

RULE 6004-1. SALE OF ESTATE PROPERTY

....

(c) Payment of Filing Fee. Upon the filing of a motion to sell property of the estate free and clear of any interest in such property under 11 U.S.C. § 363(f), the applicable filing fee must be paid at the time of filing unless—

- (1) a trustee requests in the motion that the fee be deferred and includes in the order granting the motion a directive that the filing fee be paid by the trustee from assets of the estate before filing a final report; or
- (2) a debtor in a chapter 13 case who is unable to pay the fee requests in the motion that the fee be deferred and includes in the order granting the motion a directive that the filing fee be paid from sale proceeds or, if the sale is not consummated, by the debtor’s attorney within 30 days from entry of the order. If the attorney for the debtor is required to pay the fee, the attorney may file a request for reimbursement from the estate to the extent that the proposed sale was intended to provide some benefit to the estate.

Any notice of or motion to sell property made under § 363 which provides that a lien or security interest will attach to or be paid from the sale proceeds or that such lien or security interest will be released upon payment to such entity from the proceeds is deemed a request to sell free and clear of an interest for which the filing fee must be paid.

(ed) Report of Sale. . . .

Comment

Subdivision (c) is new and the former subdivision is relabeled (d). The new subdivision provides an option for the trustee to defer payment of the filing fee until it can be paid from estate assets as already exists in CM/ECF. An option to defer the fee is now included for a chapter 13 debtor who is unable to pay the fee that has recently been permitted in the Northeastern Division. In that case the fee must be paid within 30 days or some other fixed date from entry of the order either from sale proceeds or by debtor's attorney if the sale is not consummated. If the debtor's attorney has to pay the fee, a means is provided for reimbursement from the estate to the extent that the estate would have benefited from the sale. A clarification is added at the end of the subdivision that motions to sell with proceeds to attach to liens or for liens to be paid from proceeds are motions to sell free and clear for which a filing fee must be paid.

RULE 6007-1. ABANDONMENT

(a) Abandonment by Trustee in a Chapter 7 No-Asset Case. Pursuant to Fed. R. Bankr. P. 6007(a), a chapter 7 trustee in a no-asset case may, at or after the 11 U.S.C. § 341(a) meeting of creditors, abandon property of the estate without notice to creditors or the United States Trustee unless a written request for notice of an abandonment is filed at or before the § 341(a) meeting of creditors. If a request for notice of abandonment is timely filed, the trustee may limit service of a proposed abandonment to the party requesting notice.

(b) Motion to Compel Abandonment. ~~Unless the court orders otherwise, a~~ motion by a party in interest for an order requiring a trustee or debtor in possession to abandon property of the estate must be served upon the debtor, the debtor's attorney, the trustee, ~~and all creditors, and parties in interest that have filed requests for notices of abandonment, except that a motion filed in a chapter 7 no-asset case after the § 341(a) meeting of creditors need only be served upon the trustee and parties that have filed requests for notice of abandonment.~~

(c) Agreed Order for Abandonment. ~~In a chapter 7 no-asset case, however, s~~Service of a motion for entry of an agreed order that includes an abandonment of property of the estate is not required ~~in a chapter 7 no-asset case~~ if the motion is filed after the § 341(a) meeting ~~of creditors~~ and no party has filed a written request for notice of abandonment or the requesting party has approved entry of the agreed order.

Comment

Subdivision (b) is amended to provide an exception for service of a motion filed after the § 341(a) meeting of creditors in a no-asset chapter 7 case. The second sentence in subdivision (b) has been moved to new subdivision (c) providing for service of an agreed order of abandonment in a chapter 7 no-asset case when the motion for entry is filed after the § 341(a) meeting. As for stricken language, see comment to E.D. Tenn. LBR 2014-1.

RULE 7007-1. MOTION PRACTICE IN ADVERSARY PROCEEDINGS

(a) Motion, Response, and Briefs. A motion filed in an adversary proceeding, except motions to extend or shorten time pursuant to Fed. R. Bankr. P. 9006(b)(1) and (c)(1) or for default judgment under Fed. R. Bankr. P. 7055, must be accompanied by a brief setting forth the facts and the law supporting the motion. Unless the court directs otherwise, any objection to the relief sought in the motion must be filed within 21 days after the date of filing of the motion. ~~Any response~~The **objection** must be supported by a brief setting forth the facts and the law in opposition to the motion, unless the motion is excused in this rule from being supported by a brief. A failure to ~~respond~~timely **object** to a motion will be construed to mean that the respondent does not oppose the relief requested by the motion. After the time for ~~response-filing an objection~~ has expired, the court may rule on the motion without a hearing-, ~~although a~~A-party may request a hearing on any motion.

(b) Proposed Orders. All motions in adversary proceedings must be accompanied by a proposed order, which must be served with the motion, granting the requested relief and approved for entry by the movant. A movant's failure to submit a proposed order with the motion may result in the entry of an order denying the motion without prejudice.

(c) Notices. Every motion must include a passive notice legend including a 21-day objection period (unless the court has permitted a shorter time) prominently displayed on the first page of the motion immediately below the caption in the following form:

NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING

Notice is hereby given that:

Pursuant to E.D. Tenn. LBR 7007-1 the court may consider this matter without further notice or hearing. If you object to the relief requested in this paper, you must file with the clerk of court at _____ [address] _____, an objection within _____ [number] _____ days from the date this paper was filed and serve a copy on the movant's attorney, _____ [name and address and those of other appropriate persons] _____. If you do not file an objection within the time permitted, the court will consider that you do not oppose the granting of the relief requested in this paper and may grant the relief requested without further notice or hearing. You may request a hearing in your objection, but the court may decline the request if it determines that a hearing is not required. If a hearing is set by the court, the clerk of court will send you notice of the hearing.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this proceeding or in the underlying bankruptcy case. If you do not have an attorney, you may wish to consult one.

Comment

New subdivision (c) requires motions in adversary proceedings to include a passive notice legend.

RULE 7067-1. REGISTRY FUND

....

(b) Investment of Registry Funds. Where, by order of the court, funds on deposit with the court are to be placed in some form of interest-bearing account or invested in a court-approved, interest-bearing instrument in accordance with Rule 67 of the Federal Rules of Civil Procedure, the Court Registry Investment System (CRIS), administered by the Administrative Office of the United States Courts under 28 U.S.C. § 2045, is the only investment mechanism authorized. Interpleader funds deposited under 28 U.S.C. § 1335 meet the IRS definition of a “Disputed Ownership Fund” (DOF), a taxable entity that requires tax administration. ~~Unless otherwise ordered by the court,~~ **i**Interpleader funds must be deposited in the DOF

Comment

See comment to E.D. Tenn. LBR 2014-1.

RULE 9011-4. SIGNATURES

Every paper submitted for filing must be signed and include the signer's typed or printed name, mailing address, and telephone number. If the signer is an attorney, the attorney's state bar number (and the state from which the bar number is issued, if other than Tennessee) should also be included. ~~The appropriate form of signature in an electronically filed document is addressed in E.D. Tenn. LBR 5005-4(h). Entry of the user log in and password required to file papers electronically serves as the filing user's signature on all documents filed with the court electronically for purposes of Fed. R. Bankr. P. 9011, the local rules of this court, and any other purpose for which a signature is required in connection with proceedings before the court.~~

Comment

A reference to the proposed amended E.D. Tenn. LBR 5005-4(h) is added and language is stricken that is inconsistent with proposed amended Fed. R. Bankr. P. 5005(a)(2)(C)'s statement of what constitutes a person's signature for electronic filing.

RULE 9013-1. MOTION PRACTICE

(a) Scope of Rule. As used in this rule, the word "motion" includes any motion, application, objection to claim or claim supplement, objection to a claim of exemption, or other request for an order in a bankruptcy case, ~~except as otherwise directed by the court.~~ Specifically excluded from the scope of this rule are motions in adversary proceedings.

Comment

See comment to E.D. Tenn. LBR 2014-1.

....

(f) Hearing on Motions.

- (1) *Requirement.* Except as permitted by subdivisions (g), (h), and (i) of this rule, every motion must be set for hearing by the movant. The movant must give notice of the hearing, either by a legend prominently displayed on the ~~face of the~~ first page of the motion immediately below the caption or by a separate Notice of Hearing form. If the movant uses a separate Notice of Hearing form and it is filed as a separate docket entry, the notice must be appended with or accompanied by a certificate of service complying with E.D. Tenn. LBR 9013-3. The legend or Notice of Hearing must be in ~~a the following~~ form: ~~substantially as follows:~~

....

- (2) *Scheduling.* Absent permission from the court, the hearing date chosen by the movant must be—

-
- (ii) at least 21 but no more than 40 days after service of the notice and motion except the—

-
- (B) hearing on a motion for relief from the automatic stay ~~or for adequate protection~~ in a chapter 7 case must be at least 14 days after service; and
-

Comment

Concerning the revision in subdivision (f)(1), see comment to E.D. Tenn. LBR 1007-1, as applicable. The amendment to subdivision (f)(2) provides a 14-day period after service for scheduling a hearing on motions for relief from stay that alternatively request adequate protection in chapter 7 cases. The amendment is consistent with that of a passive notice legend under subdivision (g)(3)(iii) of this rule for a “motion in a chapter 7 case for relief from the automatic stay or for adequate protection, for which the objection time must be at least 14 days.” As the rule presently stands, if a motion requesting adequate protection is set for hearing in a chapter 7 case, a minimum 21-day period after service must be provided while only a 14-day period is required if the same motion is filed using a passive notice legend.

(g) Ex Parte Motions.

- (1) *Type of Motions.* Unless otherwise provided by these rules, the court may grant without a hearing on an ex parte basis a(n)—

- (i) application by a debtor to pay the filing fee in installments or to waive the filing fee as permitted by Fed. R. Bankr. P. 1006(b) or (c); ~~except as otherwise required by E.D. Tenn. LBR 1006-1;~~

-
- (xxi) motion for conditional approval of disclosure statement in a chapter 11 small business case filed in accordance with E.D. Tenn. LBR 3017-2; ~~and~~

- (xxii) ~~motion for entry of an agreed order with the trustee abandoning property that is filed in a chapter 7 no-asset case after the 11 U.S.C. § 341(a) meeting of creditors, as permitted by E.D. Tenn. LBR 6007-1(c); and~~

- (xxiii) any other motion that the movant believes is appropriate

Comment

This subdivision has been amended to include as ex parte a motion for entry of an agreed order of abandonment filed after the § 341(a) meeting of creditors in a chapter 7 no-asset case. The stricken language removes a reference to a local rule that was abrogated by the amendments effective December 1, 2017.

(h) Passive Notice (Notice and Opportunity for a Hearing) Motions.

- (1) *Type of Motions.* As an alternative to setting and noticing a motion for hearing as required in subdivision (f) of this rule, a movant may follow this passive notice

procedure whereby no hearing is set or held unless a party in interest objects to the relief requested in the motion. Unless a hearing is otherwise expressly required by these rules, this passive notice procedure may be used for a(n)—

....

(xxiii) motion to declare a debtor ineligible for discharge pursuant to 11 U.S.C. § 727(a)(8) or § 1328(f); ~~and~~

(xxiv) motion by a chapter 12 or chapter 13 debtor upon plan confirmation for an order declaring that a secured claim has been satisfied and the lien released under the terms of the plan pursuant to Fed. R. Bankr. P. 5009(d); ~~and~~

(xxv) ~~motion for order confirming that no stay is in effect pursuant to 11 U.S.C. § 362(c)(4)(A)(ii). . . .~~

- (2) *Passive Notice Legend.* Except as provided in subdivision (d)(2) of this rule, motions filed pursuant to this passive notice procedure must contain a passive notice legend prominently displayed on ~~the face of~~ the first page of the motion immediately below the caption. The passive notice legend must be in ~~a the following~~ form: ~~substantially as follows:~~

....

- (3) *Objection deadline.* The number of days in which parties may object that is placed in the passive notice legend must be 21 days except—

....

(vi) notice of abandonment or motion to compel abandonment under Fed. R. Bankr. P. 6007, for which the objection time must be at least 14 days; ~~and~~

(vii) application to employ a professional that also seeks the approval and payment in full of the professional's fees not in excess of \$1,000 that evidences service of the application and proposed order upon the debtor, debtor's attorney, the panel or standing trustee, and the United States Trustee, for which the time for the objection must be at least 7 days;

(viii) ~~application or request for payment of administrative claims or expenses pursuant to 11 U.S.C. § 503, including fees for professionals, not exceeding \$1,000 and that evidences service of the application and proposed order upon the debtor, debtor's attorney, the panel or standing trustee, and the United States Trustee, for which the time for the objection must be at least 7 days; and~~

(viv) ~~motion for order confirming that no stay is in effect pursuant to 11 U.S.C. § 362(c)(4)(A)(ii), for which the objection time must be at least 7 days. . . .~~

Comment

Subdivision (h)(1) is amended to include a motion for an order confirming that no stay is in effect pursuant to 11 U.S.C. § 362(c)(4)(A)(ii). As for changes in subdivision (h)(2), see comment to E.D. Tenn. LBR 1007-1, as applicable. Subdivision (h)(3) is amended to authorize a 7-day passive notice period for an application for payment of administrative expenses permitted by (h)(1)(viii), provided they do not exceed \$1,000 and the requisite parties are served, and for a motion for order confirming that no stay is in effect as permitted by newly added (h)(1)(xxv).

RULE 9019-1. SETTLEMENTS

....

(d) Restricting Public Access to Certain Settlements. In order to restrict confidential settlement documents from public access, the trustee or debtor must file a motion to seal in accordance with E.D. Tenn. LBR 5005-4(am) contemporaneously with the filing of the motion to approve compromise and settlement under subdivision (a) of this rule. Both motions must be set for hearing in accordance with E.D. Tenn. LBR 9013-1(f). The motion to seal must identify all documents the movant seeks to restrict from public access and set forth good cause why the extraordinary relief of restricting public access should be granted. In addition to uploading the documents sought to be sealed using the restricted access event, the movant must also upload a statement under the restricted access event specifying—

- (1) the full amount of the settlement;
- (2) any fees and expenses to be deducted from the settlement including attorney fees and costs;
- (3) administrative expenses proposed to be paid from the settlement including trustee fees, if any; and
- (4) the amount and dividend to be paid to unsecured creditors from the settlement.

Unless the movant establishes at the hearing that compelling circumstances exist for protection under 11 U.S.C. § 107(b), the motion to seal will be denied. If the motion to seal is granted, public access to the sealed documents will be restricted to all parties other than the United States Trustee.

Comment

The language is added to make clear that even if no objection has been made to a motion to seal a settlement, the movant nonetheless has the heavy burden of overcoming the presumption of public disclosure and must establish specific grounds under § 107(b). *See, e.g., In re Thomas*, 583 B.R. 385 (Bankr. E.D. Ky. 2018).

RULE 9037-1. PRIVACY PROTECTION BY RESTRICTION AND REDACTION

If a document not exempt from redaction is filed containing one or more of the personal data identifiers listed in Fed. R. Bankr. P. 9037(a), the filer must request by motion that the document

be restricted from public access and then promptly file a redacted document. The proposed order granting the motion must not direct the clerk of court to redact the document.

Comment

The new rule is meant to address motions that request the clerk of court to redact a document. This request is not proper. The clerk will not redact and will only restrict a document from public access. The responsibility to ensure that a properly redacted document is filed and available for public access lies with the filer.

RULE 9072-1. PROPOSED ORDERS

....

(c) Format of Proposed Orders.

....

- (4) *Signature by Attorney.* All orders prepared by legal counsel must indicate the name of the law firm, name of the attorney responsible for the order, mailing address and telephone number for the firm and, if desired, the fax number and/or email address. This information ~~shall~~**must** be included on the order, after the line containing the three pound symbols. . . .

Comment

Change made for consistency within the local rules.

LOCAL FORM 3015.3

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[CAPTION]

**ORDER GRANTING MOTION TO MODIFY
AND CONFIRMING MODIFIED PLAN**

The debtor having filed a motion to modify the confirmed chapter 13 plan and the court having found after notice and an opportunity for hearing that the modified plan meets the requirements of the Bankruptcy Code, **the court directs the following:**

1. **The debtor's motion to modify is granted and the modified plan, a copy of which is attached, is hereby confirmed.**

2. **If the modified plan provides for the surrender of property in which a creditor has an interest, whether as a lienholder or as a lessor, the automatic stay under 11 U.S.C. § 362(a) is terminated upon entry of this order to allow the creditor to foreclose upon, repossess, or otherwise proceed *in rem* against that property, and any request in the plan to terminate the stay imposed by § 362(a), § 1201(a), or § 1301(a) is granted.**

3. **All pending objections to confirmation of the modified plan, if any, are resolved, withdrawn, or overruled.**

###

APPROVED FOR ENTRY BY:

**[SIGNATURE AND TYPED NAME
OF CHAPTER 13 TRUSTEE OR ATTORNEY
FOR TRUSTEE, ADDRESS, PHONE NUMBER,
AND BAR NUMBER]**

Comment

The language is added to conform this local form with that of Local Form 3015.5, Order Confirming Chapter 13 Plan.